

1 PAUL HASTINGS LLP
John P. Phillips (SB# 154412)
2 johnphillips@paulhastings.com
Sean D. Unger (SB# 231694)
3 seanunger@paulhastings.com
Ryan C. Nier (SB# 243876)
4 ryannier@paulhastings.com
55 Second Street
5 Twenty-Fourth Floor
San Francisco, CA 94105-3441
6 Telephone: (415) 856-7000
Facsimile: (415) 856-7100
7

8 Attorneys for Defendants
Samsung Telecommunications America, LLC and
Samsung Electronics America, Inc.
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 DANIEL NORCIA, on his own behalf and on
behalf of all others similarly situated,
15

16 Plaintiff,

17 vs.

18 SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC, and SAMSUNG
ELECTRONICS AMERICA, INC.,
19

20 Defendants.

CASE NO. 3:14-CV-00582-JD

**DEFENDANTS' NOTICE OF NON
OPPOSITION AND REPLY IN SUPPORT
OF MOTION TO STAY PROCEEDINGS
PENDING APPEAL**

Hearing Date: December 10, 2014
Time: 9:30 a.m.
Judge: Hon. James Donato
Courtroom: 11

21 Complaint Filed: February 7, 2014
22
23
24
25
26
27
28

1 Defendants Samsung Telecommunications America, LLC, and Samsung Electronics
2 America, Inc. filed their Notice of Motion and Motion to Stay Proceedings Pending Appeal on
3 October 17, 2014 (“Motion”), *see* Dkt. 44, and now offer this brief reply.

4 Under Civil Local Rule 7-3, Plaintiff Daniel Norcia’s opposition “*must*” have been “filed
5 and served not more than 14 days after the motion was filed.” His deadline to file an opposition
6 was October 31, 2014. N.D. Cal. Civ. Loc. Rule 7-3(a) (emphasis added); *see also J & J Sports*
7 *Prods., Inc. v. Garcia*, No. 5:12-CV-05771 EJD, 2013 WL 1809147, at *2 (N.D. Cal. Apr. 29,
8 2013) (“The Court’s Civil Local Rules require that an opposition to a motion, or statement of
9 nonopposition, be filed no more than fourteen days after the motion was filed. Civil L.R. 7–3(a),
10 (b).”).

11 Plaintiff filed no opposition.

12 Courts in this District hold that “[n]onopposition alone is sufficient to grant [a party’s]
13 motion[.]” *Nomura v. Amazon.com, Inc.*, No. C-11-01210 HRL, 2013 WL 4928229, at *3 (N.D.
14 Cal. Sept. 12, 2013). “The failure to file an opposition to a motion[.]” in other words,
15 “is grounds for granting the motion.” *Sisters of Notre Dame De Namur, California Province v.*
16 *Garnett-Murray*, No. C10-01807 HRL, 2011 WL 1936110, at *2 (N.D. Cal. May 20, 2011)
17 (quoting *Wiley v. Macy’s*, No. C10–1188 SBA, 2010 WL 2636029, at *1 n. 1 (N.D. Cal. June 30,
18 2010) (citing *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995)).

19 Defendants therefore ask that the Court either dismiss this case or grant Defendants’
20 Motion to Stay based on Plaintiff’s failure to oppose and for the reasons stated in Defendants’
21 moving papers.

22
23 DATED: November 6, 2014

PAUL HASTINGS LLP

24
25 By: /s/ John P. Phillips
John P. Phillips

26 Attorneys for Defendants
27 Samsung Telecommunications America, LLC and
28 Samsung Electronics America, Inc.